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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/873,786

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Felix Yen

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EXAMINER

DUONG, OANH L

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ART UNIT

PAPER NUMBER

2155

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/873,786	Applicant(s) YEN ET AL.	
	Examiner Oanh L. Duong	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) ✓ | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) ✓ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/17/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-44 are presented for examination.

Claim Objections

1. Claim 5 is objected to because of the following informalities:

Claim 5 recites the limitation "the user" in 19. There is insufficient antecedent basis for this limitation in the claim.

. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-24, 26-29 and 31-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swix et al. (Swix) (US 6,718,551) in view of Maissel et al. (Maissel) (US 6,637,029).

Regarding claim 1, Swix teaches a system for generating viewership profiles to facilitate distributing promotions based on the profiles of at least one network device (Fig. 1), comprising:

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a promotion agent associated with the network device for collecting viewership activity data of the network device (col. 4 lines 14-38).

Swix does not teach a life-cycle manager as claimed.

Maissel, in the same ^{field - (ma)} of endeavor, teaches a life-cycle manager server (i.e., intelligent agent 130) which receives the viewership activity data from the promotion agent and correlates the viewership activity data with program schedules to generate the viewership profiles (col. 11 lines 7-23 and col.12 lines 15-34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the life-cycle manager server of Maissel in the process of generating viewership profiles in Swix because such life-cycle manager server would provide a customized program schedule information to the viewer, thereby allowing the viewer to quickly tune to the viewer's preferred programs.

Regarding claim 26, a method of claim 26 has a corresponding system of claim 1; therefore, claim 26 is rejected under the same rationale as applied to claim 1.

Regarding claims 2 and 27, Swix-Maissel teaches the viewership activity data of the network device includes a program channel on the network device (Swix, col. 3 lines 56-58).

Regarding claims 3 and 28, Swix-Maissel teaches the viewership activity data includes a time at which the network device was tuned to the channel (Swix, col. 3 lines 61-64).

Regarding claims 4 and 29, Swix-Maissel teaches the viewership activity includes a time at which the network device was tuned away from the channel (Swix, col. 3 lines 56-64).

Regarding claims 6 and 31, Swix-Maissel teaches the viewership activity data is collected by the promotion agent over a twenty-four hour period before the viewership activity data is received by the life-cycle manager (Swix, col. 8 lines 34-35).

Regarding claims 7 and 32, Swix-Maissel teaches the viewership activity data includes a program viewed by a viewer (Swix, col. 7 lines 1-11).

Regarding claim 8, Swix-Maissel teaches the viewership activity data provides a percentage of time the program was viewed by the viewer (Maissel, col. 12 lines 35-41 and col. 17 lines 24-38).

Regarding claim 9, Swix-Maissel teaches wherein the percentage of time is precise to within about one percent (Maissel, col. 17 lines 24-38).

Regarding claim 10, Swix-Maissel teaches the program belongs to a genre (Maissel, col. 11 lines 7-37).

Regarding claim 11, Swix-Maissel teaches the viewership activity data provides a percentage of time which the genre is viewed (Maissel, col. 12 lines 38-41).

Regarding claim 12, Swix-Maissel teaches the percentage of time is precise to within about one percent (Maissel, col. 17 lines 24-38).

Regarding claim 13, Swix-Maissel teaches the program belongs to multiple genres (Maissel, col. 11 lines 7-32).

Regarding claims 14 and 33, Swix-Maissel teaches the viewership profile data is matched with a group profile (Swix, col. 8 lines 4-8).

Regarding claims 15 and 34, Swix-Maissel teaches the group profile is based on viewer attributes (Swix, col. 5 lines 10-13).

Regarding claims 16 and 35, Swix-Maissel teaches the attributes include a geographic location (Swix, col. 3 lines 3-23).

Regarding claims 17 and 36, Swix-Maissel teaches the attributes include demographic characteristics (Swix, col. 5 lines 10-13).

Regarding claims 18 and 37, Swix-Maissel teaches the attributes include a genre of programs (Maissel, col. 11 lines 30-32).

Regarding claims 19 and 38, Swix-Maissel teaches short-term viewership activity is compared with the viewership profile (Maissel, col. 28 lines 37-51).

Regarding claims 20 and 39, Swix-Maissel teaches the short-term viewership activity spans over a time period of about one minute (Maissel, col. 17 lines 32-34).

Regarding claims 21 and 40, Swix-Maissel teaches the short-term viewership activity spans over a time period of about one hour (Maissel, col. 17 lines 17-44).

Regarding claims 22 and 41, Swix-Maissel teaches the viewership profile includes viewership activity data spanning a time period of about four weeks (Maissel, col. 12 lines 16-34).

Regarding claims 23 and 42, Swix-Maissel teaches wherein the viewership profile includes viewership activity data spanning a time period of about eight weeks (Maissel, col. 12 lines 16-34).

Regarding claims 24 and 43, Swix-Maissel teaches the viewership profile includes viewership activity data spanning a time period of about twelve weeks (Maissel, col. 12 lines 16-34).

3. Claims 5, 25, 30 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swix et al. (Swix) (US 6,718,551) in view of Maissel et al. (Maissel) (US 6,637,029) in further view of Ismail et al. (Ismail) (US 6,614,987 B1).

Regarding claims 5 and 30, Swix-Maissel teaches the viewership activity data is collected if the difference between a time the network device was tuned to the channel and a time the network device was tuned away from the channel is greater than a time period set (Maissel, col. 17 lines 17-44).

Swix-Maissel does not explicitly teach a time period set by the user.

Ismail, in the same field of endeavor, teaches a time period set by the user (col. 11 lines 18-26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the time period set by the user of Ismail in the process of generating viewership profile in Swix-Maissel because such time period set by the user would allow a variable duration threshold to be set depending on user preferences.

Regarding claims 25 and 44, Swix-Maissel-Ismail teaches viewership activity data spanning a time period defined by a user of the system (Ismail, col. 11 lines 18-26).

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oanh L. Duong whose telephone number is (703) 305-0295. The examiner can normally be reached on Monday- Friday, 8:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (703) 308-6662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

O.D

September 10, 2004


HOSAIN ALAM
SUPERVISORY PATENT EXAMINER